

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ARISE FOR SOCIAL JUSTICE; ¿OISTE?;
NEW ENGLAND STATE-AREA
CONFERENCE OF THE NAACP; REV.
TALBERT W. SWAN, II; GUMERSINDO
GOMEZ; FRANK BUNTIN; RAFAEL
RODRIQUEZ; and DIANA NURSE,

Plaintiffs,

v.

CITY OF SPRINGFIELD and SPRINGFIELD
ELECTION COMMISSION,

Defendants.

Civil Action No. 05-30080 MAP

TRIAL AFFIDAVIT OF KEELY MALONE

I, Keely Malone, make the following declaration based on personal knowledge:

1. I currently live in Easthampton, Massachusetts and have lived in western Massachusetts all my life.
2. I have volunteered with the organization Arise for Social Justice ("Arise") since 2001.
3. I volunteered to be a poll monitor with MassVOTE for the November 2004 election in Springfield. At that time, I was studying political science at Mt. Holyoke College in South Hadley, Massachusetts, and so had the interest to participate as a poll monitor. Tory Field, who was coordinating the project for Arise, asked me to participate in the monitoring of the polls. Before I served as a monitor, I received training from Arise about the poll monitoring report forms and how they were to be used.

4. On election day I was assigned to the Brookings School polling place, from 5:30 - 7:30 p.m. I am familiar with the neighborhood surrounding that polling place, because Arise is located close by and serves many of its residents.

5. At the time that I served as a poll monitor, I recorded many of my observations on a form provided to me by MassVOTE. A true and accurate copy of my report is attached to this affidavit as Exhibit A.

6. Two subdivisions of Ward 3 were located inside the Brookings School polling site, so a table for each subdivision was set up with poll officials and registration lists. I was assigned to monitor Ward 3-E, but I could see and hear everything going on in the room because it was so small. There were two African American poll officials working on my side of the room, but no Latino officials.

7. As that was my first time monitoring an election, I thought I would be in a corner quietly observing what went on and not interacting with the officials or voters. However, within fifteen minutes of my arrival inside the polling place, I was outraged. African American voters were repeatedly being turned away without having the opportunity to cast a ballot because their names were not on the list or they did not have identification. There was also some confusion among poll officials as to whether a second ballot could be offered if a voter made a mistake on their first ballot.

8. When a voter's name was not found on the list, they were sent to the lead poll official, an older, Anglo woman, and some discussion occurred. After several voters were turned away, one African American poll official asked me whether the voters were supposed to be able to do something else if they were not on the list, so that they could vote. I assumed she was

referring to a provisional ballot, but I just told her I could not get involved because my job was to only record what occurred.

9. After seeing a few voters turned away without casting a ballot, I turned my attention to what the lead poll official was saying. I heard her say to the next three or four voters who were not on the list, that unless they had the letter they received in the mail confirming they were registered to vote, they could not vote there. I wondered whether I could be of more service by staying inside and witnessing the madness or whether I should go outside the polling place and tell people what their rights were as voters. After weighing both options for a bit, I couldn't stand it anymore, and I left the polling place to help the voters who were being turned away.

10. Once outside the school, I told a few of the voters who had just been turned away that they had a right to at least cast a provisional ballot and they should not leave without being given the opportunity to do so. As monitors, we had been given a hotline number to call if we witnessed a big crisis on election day. Because I was so concerned, I borrowed a cell phone, called that number, and reported what I had seen. I then went back into the school.

11. Shortly thereafter, someone I did not recognize walked into the polling place and talked to the lead poll official. I overheard that individual saying to the lead poll official that provisional ballots should be offered if the voter was not on the registration list and that if a voter makes an error on a ballot, they should be offered a second ballot. In response, the poll official said something like, "How come no one told me about these changes?" After that, poll officials began offering provisional ballots to voters. This change in procedure took place at approximately 6:00 p.m.

12. Numerous times thereafter, I heard the poll officials complaining, “it’s not like it used to be,” or “the procedures have changed,” or “I don’t know what’s going on.”

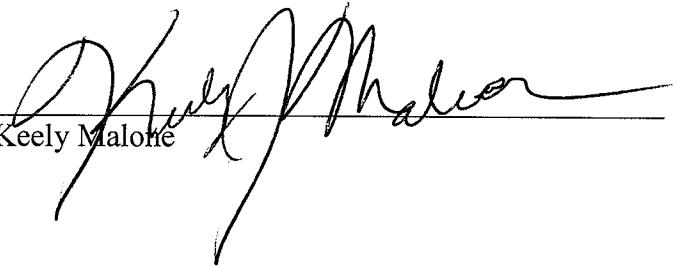
13. Another incident I observed later on during my shift was when a Latino voter in her 50’s came into the polling place along with a younger, Latino individual in her 20’s. As they were both checking in, the younger voter said, “Can’t I help my mother vote?” and there was some confusion among the poll officials as to whether this was allowed. Ultimately, the poll officials let the daughter help, but only after some discussion between the two officials at the table. It appeared the poll officials did not know whether this was allowed.

14. During the time I was monitoring, there also seemed to be a fair amount of confusion as to whether the voters had put their paper ballots into the correct counting machine. There was not much room in the polling site, anyway, and with the two poll tables on each side, voting booths in the middle and two counting machines, along with poll officials and voters trying to get in out of the cold, it was easy to see why there was chaos.

15. A large number of voters, mainly Latino and African American, showed up to vote at the school, said they had voted there before, but were not allowed to vote that day. The poll workers told some of these voters that their polling place had changed, and that they should have been notified of the change. I did not mark these incidents on my report, because I was led by the poll workers to believe that the voters had made a mistake in coming to the Brookings School. However, some voters would come in and our location would have been the second or third place they had tried that day. One person was sent by the poll workers to another polling location, but returned to Brookings School after he was told at the other polling location that his correct polling location was the Brookings School.

16. I did see white individuals coming in to vote, but I did not see any of them having the same kind of problems mentioned above. I distinctly remember that difference in treatment because after the initial problems, I began to focus on whether voters of all races were treated the same. There seemed to exist a sort of camaraderie between the white poll officials and the white voters, that was not the same with minority voters.

Signed under penalties of perjury this 13th day of January, 2007


Keely Malone

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 2, 2007.

/s/ Paul E. Nemser

EXHIBIT A

Poll Monitor: Checklist for the Shift

Please keep a running tally of your observations, a single voter may have more than one problem.

PERGAD-Bojones NJ
EXHIBIT
C3

RESEARCH QUESTIONS

Volunteer Name Keely MaloneCity Springfield, MAPolling Location Brookline Ward 3 - ETime of Shift 5:30 - 7:30 pm**OTHER - general or one time events**

Check how many times:

Describe if a problem

Phone lines don't work or line is busy

Scanner Breaks Down - please describe event

Precinct has Incorrect or Insufficient number of Ballots

Signage Issues inside Precinct.

Poll well signed from street.
Parking complaints if any?

Poll Opens on Time

Voters in Line by 8 PM allowed to vote

POLL WORKER DEMOGRAPHIC QUESTION

In your estimation - do the poll workers reflect the ethnic and language diversity of the voters? If not, in what way do they differ? Age? Language? Ethnic background?

*The majority of the poll workers,
7 out of 9 were elderly. There were no
hispanic poll workers either.*

All information is confidential.

Please:

1. Return your filled in tally sheet to Your Coordinator at the end of the shift, or, if instructed,
2. Put Postage Paid Envelope into nearest Mailbox.

Thank you.